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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/649,640  | 08/28/2003  | Yoshinori Nakagawa   | 01272.020624        | 5555             |
| 5514  | 7590        | 11/02/2005           | EXAMINER            |                  |
| FITZPATRICK CELLA HARPER & SCINTO<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |             |                      | TRAN, LY T          |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2853                |                  |

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/649,640

Applicant(s)

NAKAGAWA ET AL.

Examiner.

Ly T. TRAN

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 7, 8, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of species 1 in the reply filed on 2/14/05 is acknowledged. The traversal is on the ground(s) that the various species are closely related and would not require separate fields of search. This is not found persuasive because figure 6, 7 8 and 9 are disclosed different embodiment, they do require separate search.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipate by Nakamura (USPN 6,257,696).

With respect to claims 1 and 10, Nakamura discloses an apparatus and a method that forms an image by ejecting ink from a print head (Column 8: line 48-50), in which a plurality of ejecting portion rows (Column 8: line 51-65) are arranged comprising:

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- a carriage (Column 6: line 6-7) that scans a the print head (Column 6: line 29-31); and
- preliminary ejecting means for ejecting the ink from the ejecting portions in the print head so such that the ejection is not involved in formation of the image (Fig.9, 15)
- wherein the preliminary ejecting means sequentially selects one of the plurality of ejecting portion rows as an ejecting portion on which an ejecting operation is performed, while the carriage is not performing a scanning operation, and said preliminary ejecting means then subjects the selected ejecting portion row to preliminary ejection (Fig.9: element S54-59, fig.15: element S83, S86).

With respect to claim 6, Nakamura discloses that plurality of ejecting portion rows are provided for respective colors of ejected ink (Fig.8: element y, m, c, b).

With respect to claim 9, Nakamura teaches the ejecting portions are used thermal energy to cause ink to be ejected as droplets (Column 7: line 18-26).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 6, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ly T. TRAN whose telephone number is 571-272-2155. The examiner can normally be reached on M-F (7:30am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LT

October 31, 2005

  
Stephen D. Meier  
Primary Examiner